

October 25, 2006

Ms. Kristine Cazadd, Chief Counsel
Board of Equalization
450 N Street/ P.O. 94287
Sacramento, CA 94279-0001



OCT 30 2006

by CHIEF COUNSEL'S OFFICE
STATE BOARD OF EQUALIZATION

Dear Ms. Kristine Cazadd:

We, as young leaders in Sacramento County, wish to address the issue of "Alcopops" and petition the Board of Equalization under Govt Code § 11340.6 to follow or amend its Regulations to address the proper taxation of "Alcopops." Not only do we represent youth today, but we also represent two important organizations that support this issue. These organizations are Friday Night Live, S.M.A.C.C., and the California Youth Council. Friday Night Live is a youth led organization that builds positive and healthy youth development that engages youth as active leaders and resources in their surrounding communities. S.M.A.C.C. represents Students Making a Community Change; students are able to engage and become leaders in their communities. The California Youth Council is a group of young adult leaders who come together and share the different opinions of youth throughout California. We are able to do so because the members that make up the California Youth Council come from different cultures and communities throughout the state.

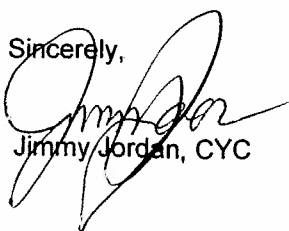
We are writing you today to address an issue we feel should be recognized and acted upon by the Board of Equalization—"Alcopops," which are also known as Flavored Malt Beverages, are alcoholic drinks popular among youth. This is an important issue to us because these beverages significantly affect young people. Not only does the alcohol industry target our age group, but it also contributes to the many tribulations that youth encounter.


Currently, alcopops are taxed as a beer under Revenue and Taxation Code, section 32151. However, these beverages contain distilled spirits, and therefore should be taxed under Regulation 32201. Distilled spirits are defined as an alcoholic beverage obtained by the distillation of fermented agricultural products, and includes alcohol for beverage use, spirits of wine, whiskey, rum, brandy, and gin, including all dilutions and mixtures thereof. The Board of Equalization further defined distilled spirits as "An alcoholic beverage product including beer and any amount or kind of distilled spirit does not meet the definition of beer and will instead be taxed as a distilled spirit. 5/27/97. (M98-1, Am. 2000-1)". We feel that since alcopops contain distilled spirits, then they should be taxed as a distilled spirit. By currently taxing Flavored Malt Beverages as a beer, it is credible to say that the beverage is taxed incorrectly and the state of California is **losing vital revenue** it should be rightfully collecting, which is estimated around \$40 million dollars. In addition, the misclassification promotes marketing alcopops to young people. The proper tax rate would raise the price, thereby reducing appeal to young people.

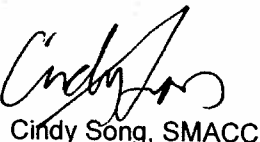
Accordingly, we urge the Board to grant our petition, and adopt Regulations that implement **Alcoholic Beverage Tax Annotations 7111 2004-1 and appropriately tax flavored malt beverages as distilled spirits**. Secondly, we suggest that if there is question about the distilled spirit content of Alcopops that the burden of proof should be on the alcohol manufacturers to prove that the ingredients in their products do NOT include distilled spirits; otherwise you should tax them in accordance with your tax annotation. Already, Regulation 2530 requires every distilled spirits taxpayer to furnish to the Board a statement of the gallonage of finished packaged distilled spirits on hand for the reporting period. (See also Regulations 2541 and 2542 setting forth a reporting requirement for common carriers and public warehouses, respectively) Thus, under this Regulation distilled spirits taxpayers should already be reporting to the Board the gallonage of finished packaged Alcopops, if these alcopops contain distilled spirits. However, we do not believe these taxpayers are reporting correctly, and we petition the Board to modify the language of Regulation 2530 (or create a new Regulation) to define distilled spirits to specifically include flavored malt beverages that contain distilled spirits, and place the burden on the taxpayer to provide sufficient evidence to prove a claim that its flavored malt beverage product does not contain distilled spirits.

We have had the opportunity to meet with staff in the offices of John Chiang, Bill Leonard and Claude Parrish. Based on our meetings, we believe that the Board has the authority and responsibility to collect the taxes appropriately on these products. Thank you for taking your time and attention to consider our petition and we look forward to hearing from you soon.

Sincerely,


Jimmy Jordan, CYC


Elianna Yanger, CYC


Cindy Song, SMACC


James Dui, SMACC